THE HON'BLE MR. JUSTICE S. ANANDA REDDY

W.P.No. 17026 of 2005

Date: August 8 , 2005

Between:

R. Venkat Ram Reddy, Supervisor,

S/o. Narsimha Reddy, aged 56 years,

DCCB Medak, Sangareddy,

R/o.5-1-3/1, Shanthi Nagar, Sangareddy.

…Petitioner

and

The District Coop. Central Bank Ltd.,

Medak, H.O., Sangareddy, rep. by its

General Manager. & Another.

…Respondents

* * *

O R D E R:

This Writ Petition is filed by the petitioner questioning the show cause notice dated 13.7.2005 under which the 2nd respondent, who is the disciplinary authority, has agreed with the findings of the Enquiry Officer as to the charges framed against the petitioner, and proposed to impose the punishment of dismissal from service, and asked the petitioner to submit his explanation to show cause why he should not be dismissed from service of the Bank, besides recovery of Rs.5,07,000/-.

2. The grievance of the petitioner is that the procedure adopted by the disciplinary authority is contrary to the judgment of the Supreme Court in ***Managing Director, ECIL, Hyderabad v. B. Karunakar*** and ***Punjab National Bank v. Kunj Behari Misra***, wherein it was held that before considering the report of the Enquiry Officer, the disciplinary authority has to furnish a copy of the enquiry report and the petitioner must be given an opportunity to explain or to submit his explanation or objections to the findings of the Enquiry Officer before considering and coming to a conclusion by the disciplinary authority with reference to the findings. But contrary to the said view, the disciplinary authority has considered the enquiry report and came to his conclusions with reference to various charges and findings of the Enquiry Officer. Therefore, the impugned show cause notice is illegal and unsustainable, and therefore, sought to set aside the same.

3. On the other hand, the learned Counsel for the Respondents, though sought to sustain the impugned show cause notice, but however, conceded that in view of the judgment of the Supreme Court, the petitioner may be given an opportunity to file his objections for the enquiry report and if such objections or explain is filed, the disciplinary authority would consider the said objections/explanation, and thereafter, the disciplinary authority has to come to his conclusions with reference to the charges vis-à-vis the findings of the Enquiry Officer, and has to pass appropriate orders.

4. Heard the learned counsel for both the parties, and considered the material on record.

5. In view of the violation of the principles of natural justice of not furnishing a copy of

the enquiry report and denial of opportunity to the petitioner before considering the findings of the Enquiry Officer by the disciplinary authority, the impugned show cause notice to the extent of recording the findings by the disciplinary authority with reference to the charges vis-à-vis the findings of the Enquiry Officer, is set aside. The petitioner is directed to submit his explanation/ objections, if any, to the findings of the Enquiry Officer within a period of four weeks from the date of receipt of the copy of this order. On receipt of such explanation/objections from the petitioner, the disciplinary authority is directed to consider the same, and thereafter decide the issue on various charges and findings, and pass appropriate orders on merits.

6. At the time of hearing, the learned counsel for the petitioner raised certain objections even with reference to enquiry report alleging that the petitioner was not given sufficient opportunity and in fact, proper enquiry was not conducted, and the same would amounts to violation of the principles of natural justice. However, this Court declines to go into all those aspects. It is for the petitioner to raise objection with reference to such contentions while filing objections as to the enquiry report before the disciplinary authority. It is also stated that the petitioner was not being paid the subsistence allowance in accordance with Rules for the last one year. Therefore, the respondents are directed to pay the subsistence allowance to which the petitioner is entitled, if not already paid, up to date; and if any arrears are to be paid, the same shall be paid within a period of four weeks from the date of receipt of a copy of this order.

7. The Writ Petition is disposed of with the above observations and directions. No costs.

_____

S.Ananda Reddy, J.

08…08…2005

Kvh

THE HON'BLE MR. JUSTICE S. ANANDA REDDY

-

W.P. No.17026 of 2005

O R D E R

08..08..2005

-